THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION No.12562 of 1998

Dated:02.08.2006

Between:

Boorugadda Satyanarayana Rao.

…Petitioner

and

The A.P. State Finance Corporation, represented by its Managing Director, Hyderabad, and others.

…Respondents

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION No.12562 of 1998

ORDER:

This writ petition is filed seeking a declaration that the action of the respondents-A.P. State Finance Corporation (for short "the Corporation") in calling for tenders vide notification, dated 21.04.1998, for sale of Venkata Kishore Rao and Para Boiled Rice Mill, Atkur, Krishna, as arbitrary and illegal.

The facts in brief are as under:

The Corporation had initially issued a notification in the year 1994 inviting tenders for sale of the above said rice mill. The petitioner was one of the participants and it is not in dispute that his offer of Rs.12,00,000/- was the highest. However, on negotiations by the Corporation, the offer was enhanced to Rs.20,00,000/-. The petitioner claims that the said tender was accepted by the Corporation on 13.06.1994. While so, one Madhusudan Rao, who was also one of the participants in response to the tender notification, appears to have offered Rs.22,00,000/- and deposited a sum of Rs.5,00,000/-. Alleging that the Corporation was going to finalise the tender in favour of said Madhusudan Rao, the petitioner filed O.S.No.940 of 1994 on the file of the District Munsiff, Vijayawada, seeking perpetual injunction restraining the Corporation from finalizing the tender in favour of said Madhusudan Rao. The trial Court granted temporary injunction restraining the Corporation from finalizing tenders. Aggrieved by the same, the Corporation preferred an appeal, being C.M.A.No.210 of 1994. At that stage, the petitioner offered Rs.23,00,000/- and accepting the same, the Corporation by letter, dated 23.08.1994,

informed the petitioner that his request for purchase of the rice mill has been accepted by the Board of Directors for a consideration of Rs.23,00,000/-, on cent percent down payment within thirty days. That apart, the petitioner was also called upon to withdraw the suit filed against the Corporation. The Corporation has also agreed to withdraw C.M.A.No.210 of 1994 filed by it against the order of temporary injunction. Thereafter, it appears that no steps were taken by either side, and consequently, the sale could not be finalized. While so, on 21.04.1998, the Corporation issued a fresh notification inviting tenders for the sale of the said rice mill. Questioning the same, this writ petition was filed.

This Court while directing Rule Nisi, by order, dated 30.04.1998, granted interim stay of all further proceedings in pursuance of the notification, dated 21.04.1998, subject to the condition that the petitioner deposits a sum of Rs.23,00,000/-. It is not in dispute that the petitioner could deposit only a sum of Rs.11,00,000/-. It is claimed that for the balance amount, he furnished a bank guarantee with the Sai Cooperative Urban Bank Limited. However, even according to the petitioner, the bank guarantee was valid only up to 21.01.1999.

When the matter is taken up for consideration, the learned counsel for the Corporation represented that since the petitioner failed to comply with the condition imposed by this Court while granting the stay of the impugned notification, the Corporation had proceeded with the impugned sale and the same was confirmed on 07.04.1999.

Learned counsel for the Corporation also stated that in pursuance thereof, the possession of the rice mill was already handed over to the purchaser and even W.P.No.8025 of 1999 filed by the principal borrower questioning the said sale was dismissed by this Court by order dated 19.04.1999.

Having regard to the above facts, it is clear that the cause in the writ petition does not survive. Hence, though the learned counsel for the petitioner vehemently contended that the action of the respondents

in not accepting the offer made by the petitioner and not finalizing the sale in his favour is arbitrary and illegal, I am of the opinion that it is not necessary to enter into the said issue at this stage.

The Writ Petition is accordingly dismissed. No costs.

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(G.ROHINI, J)

Dated:02.08.2006
GJ